HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 686 OF 2006

Between:

V.K. Siraj

… Petitioner

AND

Deputy Transport Commissioner and
Secretary, Regional Transport Authority,
Kurnool, Kurnool District and another.

… Respondents

: O R D E R :

Counsel for the petitioner : Sri E. Maruthi Raja

Counsel for the respondents : Government Pleader for Transport

2nd February 2007

Per G.S.SINGHVI, C.J.

This is a petition for quashing demand notice dated 26-9-2005 issued by Regional Transport Officer, Anantapur (respondent No.2) requiring the petitioner to pay tax and penalty amounting to Rs.55,566/- and order dated 15-12-2005 passed by Deputy Transport Commissioner and Secretary, Regional Transport Authority, Kurnool (hereinafter described as 'the Appellate Authority'), whereby he directed respondent No.2 to cancel the registration of vehicle No.AP-03-T-9867 belonging to the petitioner.

The petitioner claims to have purchased the vehicle in question from Smt.S.Shahina in May, 2005. After 18 days, the vehicle was seized by the Motor Vehicle Inspector, Anantapur and Kurnool. The petitioner challenged the same in Writ Petition No.12465 of 2005. By an interim order dated 14-6-2005, this Court directed the concerned authority to release the vehicle. By another order dated 27-6-2005, the Court directed the petitioner to produce the necessary documents within two days with a further direction to the concerned authority to pass appropriate order within next two days. The petitioner is said to have produced the relevant papers on 4-7-2005 and 5-7-2005, but respondent No.2 refused to release the vehicle on the premise that the chassis number indicated in the R.C. prior to transfer of ownership was missing in the R.C. produced by the petitioner. Respondent No.2 also directed the petitioner to show cause as to why a sum of Rs.18,522/- may not be recovered from him as tax in terms of Section 3 of the Andhra Pradesh Motor Vehicle Taxation Act, 1963 (for short, 'the 1963 Act') together with penalty as per the rules. As a follow-up, respondent No.2 issued notice dated 26-9-2005 and called upon the petitioner to pay tax amounting to Rs.18,522/- and penalty of Rs.37,044/-.

The appeal preferred by the petitioner against the demand of tax and penalty was dismissed by the Appellate Authority with a superimposed direction for cancellation of the registration of the vehicle.

The petitioner has questioned the demand notice on the ground that the same is ultra vires the provisions of Section 3 of the 1963 Act. He has also challenged the appellate order on the ground of violation of the rules of natural justice. In the affidavit filed by him, the petitioner has averred that the issue relating to registration of the vehicle was not subject matter of appeal, and yet the Appellate Authority, without giving him notice and opportunity of hearing, directed Regional Transport Officer, Anantapur to cancel the registration under Section 55(5) of the Motor Vehicles Act, 1989.

In the counter filed by Sri Altaf Rahim Khan, Secretary, Regional Transport Authority-cum-Deputy Transport Commissioner, Anantapur, it has been averred that the demand for tax and penalty was created because the petitioner had not complied with the provisions of the 1963 Act. The deponent has also justified the cancellation of the registration by asserting that the petitioner had tampered with the chassis and engine numbers.

We have heard learned counsel for the parties. In our opinion, it is not necessary to decide all the issues raised in the petition because, on a consideration of the pleadings of the parties and the arguments of the learned counsel, we are convinced that order dated 15-12-2005 passed by the Appellate Authority is liable to be quashed on the ground of violation of the rules of natural justice. A reading of that order shows that after making a bare reference to the appeal filed by the petitioner and the remarks submitted by Regional Transport Officer, Anantapur, the Appellate Authority straightaway recorded the following conclusion:

> "In view of the circumstances stated, the Regional Transport Officer, Anantapur along with Motor Vehicle Inspector, Kurnool and Motor Vehicle Inspector, Anantapur came to a conclusion that the vehicle No.AP03T9867 produced for renewal of F.C. is a different vehicle, as the Chasis No. & Engine No. embossed and the type of letters printed on vehicle are different from that are available in the R.C. and mechanical condition of the vehicle is not of the

vehciel for which F.C.was renewed on 11-5-2005. Further, there are no valid records for the vehicle in question. Thus, there is no need to interfere with the demand of tax and penalty by the Licensing Officer."

The Appellate Authority then proceeded to direct the Regional Transport Officer to cancel the registration of the vehicle. This is evinced from the following extracts of order dated 15-12-2005:

> "In the above circumstances, the Regional Transport Officer, Anantapur is requested to cancel the registration of the vehicle U/S.55 (5) of M.V.Act and rules made thereunder and also take necessary action to auction the vehicle as scrap and realize the amount due against the vehicle."

In our opinion, the appellate order does not satisfy the requirement of a speaking order, which every quasi-judicial authority is bound to pass. The requirement of passing a speaking order or recording of reasons and communication thereof to the affected party has been treated as an integral part of the concept of natural justice - **Harinagar Sugar Mills v. Shyam Sundar**[1], **M.P.Industries Limited v. Union of India**[2], **Bhagat Raja v. Union of India**[3], **Mahavir Prasad Santoshkumar v. State of U.P.**[4], **Travancore Rayons v. UOI**[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**[7], **S.N. Mukherjee v. Union of India**[8], **Charan Singh v. Healing Touch Hospital**[9] **State of Punjab v. Bagh Singh**[10], **State of Orissa v. Dhaniram Luhar**[11], **State of Rajasthan v. Sohan Lal**[12], **Cyril Lasrado v. Juliana Maria Lasrado**[13], **Mangalore Ganesh Beedi Works v. CIT**[14] and **Manorama Sachan v. Lucknow Development Authority**[15]. In

S.N. Mukherjee v. Union of India (supra), the Constitution Bench of the Supreme Court noticed the legal position obtaining in Australia, England, United States of America, referred to a large number of judicial precedents on the subject, and laid down the following proposition:

> "……Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U. S. A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case."

In **State of Punjab v. Bagh Singh** (supra), the Supreme Court observed:

> "Reasons introduce clarity in an order. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the

power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

In **State of Rajasthan v. Sohan Lal** (supra), the Supreme Court while dealing with the question whether the High Court was required to assign reasons for recording reasons while disposing of petitions filed under Section 378 (3) Cr.P.C. observed:

> "The hallmark of a judgment/order and exercise of judicial power by a judicial forum is to disclose the reasons for its decision and giving of reasons has been always insisted upon as one of the fundamentals of sound administration justice-delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. … The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know of the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind. All the more so, when refusal of leave to appeal has the effect of foreclosing once and for all a scope for scrutiny of the judgment of the trial court even at the instance and hands of the first appellate court. ……."

In **Cyril Lasrado v. Juliana Maria Lasrado**[13] (supra), the Supreme Court considered the same question and held as under:

> "……Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least

sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

In **Testeels Limited v. N.M. Desai, Conciliation Officer and another**[16], a Full Bench of the Gujarat High Court made a lucid exposition of law on the subject and we can do no better than to reproduce the relevant paragraphs of that judgment, which are as under:

"There are two strong and cogent reasons why we must insist that every quasi-judicial order must disclose reasons in support of it. The necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set-up. Our Constitution posits a welfare State in which every citizen must have justice—social, economic and political and in order to achieve the ideal of welfare State, the State has to perform several functions involving acts of interferences with the free and unrestricted exercise of private rights. The State is called upon to regulate and control the social and economic life of the citizen in order to establish socio-economic justice and remove the existing imbalance in the socio-economic structure. The State has, therefore, necessarily to entrust diverse functions to administrative authorities which involve making of orders and decisions and performance of acts affecting the rights of individual members of the public. In exercise of some these functions, the administrative authorities are required to act judicially. Now what is involved in a judicial process is well settled and as pointed out by Shah J. in **Jaswant Sugar Mills's** case, AIR 1963 SC 677 supra, a quasi-judicial decision involves the following three elements:

(1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;

(2) It declares rights or imposes upon parties obligations affecting their civil rights; and

(3) The investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of material if a dispute be on question of fact, and if the dispute be on question of law, on the presentation, of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.

Another reason of equal cogency which weighs with us in spelling out the necessity for giving reasons is based on the power of judicial review which is possessed by the High Court under Article 226 and the Supreme Court under Article 32. The High Court under Article 226 and the Supreme Court under Article 32 have the power to quash by certiorari a quasi-judicial order made by an administrative officer and this power of review exercisable by issue of certiorari can be effectively exercised only if the order is a speaking order and reasons are given in support of it. If no reasons are given, it would not be possible for the High Court or the Supreme Court exercising its power of judicial review to examine whether the administrative officer has made any error of law in making the order. It would be the easiest thing for an administrative officer to avoid judicial scrutiny and correction by omitting to give reasons in support of his order. The High Court and the Supreme Court would be powerless to interfere so as to keep the administrative officer within the limits of the law. The result would be that the power of judicial review would be stultified and no redress being available to the citizen, there would be insidious encouragement to arbitrariness and caprice. The power of judicial review is a necessary concomitant of the rule of law and if judicial review is to be made an effective instrument for maintenance of the rule of law, it is necessary that administrative officers discharging quasi-judicial functions must be required to give reasons in support of their orders so that they can be subject to judicial scrutiny and correction."

In the present case, the Appellate Authority did not advert to the points taken in the appeal filed by the petitioner against the demand of tax and penalty, what to say of considering and deciding the same by recording reasons. What we have reproduced hereinabove represents

the conclusions recorded by the Appellate Authority on the basis of the remarks furnished by the Regional Transport Officer. This cannot be treated as a satisfactory method of disposing of the appeal preferred against the demand of tax and penalty. Therefore, the appellate order is liable to be nullified on the ground that the same does not satisfy the requirement of a speaking order.

The direction given by the Appellate Authority to the registering authority to cancel the registration of the vehicle and dispose of the same by treating it as a scrap for the purpose of realisation of dues is liable to be nullified on the ground of violation of the rule of audi alteram partem because it is an undisputed position that before issuing the impugned direction, the Appellate Authority did not give action-oriented notice and opportunity of hearing to the petitioner. In this connection, we may usefully refer to the judgments of the Supreme Court in **State of Orissa v. Dr. (Ms.) Binapani Dei**[17], **Sayeedur Rehman v. State of Bihar**[18], **Maneka Gandhi v. Union of India**[19] and **Olga Tellis v. Bombay Municipal Corporation**[20].

In the result, the writ petition is allowed. Order dated 15-12-2005 passed by the Appellate Authority is quashed with the direction that it shall decide the petitioner's appeal after hearing him and the representative of the department.

As a sequel to disposal of the writ petition in the manner indicated above, WVMP.No.2450 of 2006 filed by the Appellate Authority for vacating interim order dated 10-1-2006 and WPMP.No.825 of 2006 filed by the petitioner for interim relief are disposed of as infructuous.

G.S.SINGHVI, C.J.

2nd February, 2007

C.V.NAGARJUNA REDDY, J.

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[1] AIR 1961 SC 1669
[2] AIR 1966 SC 671
[3] AIR 1967 SC 1606
[4] AIR 1970 1302
[5] AIR 1971 SC 862
[6] AIR 1976 SC 437
[7] AIR 1976 SC 1785
[8] AIR 1990 SC 1984
[9] (2000) 7 SCC 668
[10] (2004) 1 SCC 547
[11] (2004) 5 SCC 568
[12] (2004) 5 SCC 573
[13] (2004) 7 SCC 431
[14] (2005) 5 SCC 75
[15] (2005) 9 SCC 425
[16] AIR 1970 GUJARAT 1
[17] AIR 1967 SC 1269
[18] AIR 1973 SC 239
[19] AIR 1978 SC 597
[20] AIR 1986 SC 180